

HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No.102 of 2005

1. Nafis Ahmad S/o Abdul Wahid
2. Abdul Wahid S/o Haviv Ahmad
3. Amina W/o Abdul Wahid
4. Nadim Ahmad S/o Abdul Wahid
5. Naeem Ahmad S/o Abdul Wahid
All R/o near post office
Landor Bazar, Musoorie
District Dehradun

.....Applicants

Versus

1. State of Uttaranchal
2. Smt. Nazia Hussain
C/o Zahid Hussain
R/o Raj Mahal Hotel
Compound Nainital

.....Respondents

Hon'ble J. C. S. Rawat, J.

Heard Sri Arvind Vashisht learned counsel for the applicants, Sri T. A. Khan learned counsel for the respondent No.2-Smt. Nazia Hussain and learned A.G.A.

This is a petition under section 482 Cr.P.C. with the prayer to quash the chargesheet in case crime No.88/2003 under sections 498-A, 323, 504, 506 IPC & 3/4 Dowry Prohibition Act and criminal case No.902/2003 {State Vs. Nafis and others} pending before the Chief Judicial Magistrate, Nainital.

It has been alleged in the petition that the marriage was solemnized between the applicant no.1- Nafis Ahmad and respondent No.2-Smt. Nazia Hussain on 17.2.2002 according to Muslim personal law. But, they could not maintain family harmony. Thereafter, on 28.1.2003 the applicant No.1 divorced her by pronouncing the word "Talak" three times. After the pronouncement of Talak, the respondent No.2 lodged the FIR at police station Mallital on 7.2.2003 and the same was registered as case crime No.188/2003 under sections 498-A, 323, 504, 506 IPC and 3/4 Dowry

Prohibition Act. The I.O. has submitted the chargesheet and the case was registered as criminal case No.902/2003 and the cognizance was taken against the applicants. Feeling aggrieved to the order of cognizance, the applicants have come up before this Court.

During the course of hearing, the affidavit of Nafis Ahmad-husband has been filed on 26.4.2005 stating therein that the parties have amicably settled their disputes. Smt. Nazia Hussain-wife has also filed the affidavit stating therein that the matter may be decided in terms of the compromise. In view of the above, it is revealed that no disputes at present persist between them and other family members.

Considering that the parties have entered into an amicable settlement and no useful purpose will be served to prolong the pendency of the above mentioned case. It has been held by the Hon'ble Supreme Court in **B. S. Joshi and Ors. Vs. State of Haryana and Anr. JT 2003(3) SC 277:-**

"12. The special features in such matrimonial matters are evident. It becomes the duty of the Court to encourage genuine settlements of matrimonial disputes.

*13. The observations made by this Court, though in a slightly different context, in **G.V. Rao Vs. L.H.V. Prasad and others 2000(3)SCC p/693** are very apt for determining the approach required to be kept in view in matrimonial dispute by the Courts. It was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little*

often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counseled and brought about re-approchment are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a Court of law where it takes years and years to conclude and in that process the parties lose their 'young' days in chasing their 'cases' in different Courts."

Considering the above facts and the principles laid down by the Apex Court, the charge-sheet mentioned above and the proceedings in criminal case no. 902 of 2003 are hereby quashed. The petition is allowed accordingly.

Dated 28.06.2005

(J.C.S. Rawat, J.)

LSR